

# **EXHIBIT 2**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

JASON DOUGLAS, individually and on	)	
behalf of all others similarly situated,	)	Case No. 14-cv-1741
	)	
Plaintiff,	)	Hon. Gary Feinerman
	)	
v.	)	Magistrate Judge Jeffrey Cole
	)	
THE WESTERN UNION COMPANY, a	)	
Delaware corporation,	)	
	)	
Defendant.	)	

**AFFIDAVIT OF JOSEPH J. SIPRUT**

I, Joseph J. Siprut, declare:

1. I am over the age of eighteen and am fully competent to make this declaration. I make this declaration based upon personal knowledge unless otherwise indicated.
  
2. I am admitted to practice in the State of Illinois and in the United States District Court for the Northern District of Illinois, the Seventh Circuit Court of Appeals, the Eleventh Circuit Court of Appeals, the United States Supreme Court, and other federal district courts. I am one of the attorneys for Plaintiff Jason Douglas (“Plaintiff”) and lead counsel for the Settlement Class herein. I make this declaration in support of Plaintiff’s Motion For Preliminary Approval Of Class Action Settlement. If called as a witness, I would and could testify to the following:
  
3. I am the managing partner of the law firm of Siprut PC (herein “Siprut PC” or “Class Counsel”). I have personally been involved in the entirety of the prosecution of this class action lawsuit (the “Action”).
  
4. The operative complaint in the Action alleges that Defendant The Western Union Company (“Western Union”) sent or had sent on its behalf unsolicited text messages to unwilling

recipients in violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (“TCPA”).

5. On March 12, 2014, Plaintiff filed his Class Action Complaint against Western Union seeking to represent a proposed class of all individuals or entities who allegedly received unsolicited text messages to their wireless telephones from or on behalf of Western Union. (Dkt. No. 1.)

6. On March 14, 2014, Plaintiff’s process server effected service on Western Union. (Dkt. No. 10.) That same day, this Court set an initial status hearing for May 7, 2014 and required the Parties to file an initial status report by April 30, 2014. (Dkt. No. 9.)

7. On April 3, 2014, Western Union moved for an extension of time to answer or otherwise plead. (Dkt. No. 14.) This Court granted Western Union’s motion for extension of time and required it to answer or otherwise plead to the complaint by May 5, 2014. (Dkt. No. 16.)

8. On April 30, 2014, the Parties filed a Joint Initial Status Report (the “Initial Report”). (Dkt No. 20.) During the Parties’ scheduling conference and in the Initial Report, Western Union represented that Plaintiff’s claims may be subject to an arbitration agreement. (*Id.* at ¶5.) Western Union stated that absent an agreement to submit the claim to arbitration, Western Union would move to compel arbitration. (*Id.*) On May 5, this Court issued a Minute Entry stating that if Western Union intended to file a motion to compel arbitration, it should notice the motion for presentment at the initial status hearing. (Dkt. No. 21.) On May 5, 2014, however, Western Union filed its Answer, denying the substance of the allegations and raising 30 affirmative defenses. (Dkt. No. 22.)

9. At the initial status hearing on May 7, 2014, Western Union indicated that it remained inclined to file a motion to compel arbitration. (Dkt. No. 23.) Per an agreement by the

Parties, this Court stayed discovery until 14 days after the Court's ruling on the forthcoming motion to compel arbitration. (*Id.*)

10. On May 27, 2014, Plaintiff filed his Motion To Strike Western Union's Affirmative Defenses. (Dkt. No. 24.) Pursuant to Rule 12(f) of the Federal Rules of Civil Procedure, Plaintiff sought to strike each of Western Union's 30 affirmative defenses.

11. At the presentment hearing on Plaintiff's motion to strike on June 12, 2014, the Parties reported that they intended to engage in private mediation. (Dkt. No. 26.) Accordingly, Plaintiff agreed to withdraw his motion with prejudice. (*Id.*) This Court ordered discovery to remain stayed pending further order. (*Id.*)

12. Between June and September 2014, the Parties engaged in back-and-forth negotiations over the selection of a mediator. At the status hearing on September 9, 2014, the Parties reported that a mediation was scheduled for early October. (Dkt No. 27.)

13. On October 9, 2014, the Parties, as well as a representative from Western Union's insurer, CNA, attended a mediation at JAMS Resolution Center with Judge Andersen (Rt.) serving as the Parties' mediator. (Dkt. No. 28.) The Parties conducted negotiations for a full day, but were unable to reach a resolution. (*Id.*) Nevertheless, the Parties made progress and agreed to continue negotiations at a later date to be determined.

14. Between October 2014 and February 2015, the Parties continued productive, informal settlement discussions. Western Union also was working through various coverage issues with its insurer. (Dkt. No. 30.)

15. On February 27, 2015, the Parties engaged in another full-day session of mediation in New York with Judge Andersen presiding. (Dkt. No. 36.) The Parties continued their vigorous settlement negotiations for another three months. During that time, Plaintiff refiled

his pending Motion For Class Certification, pursuant to the Court's instruction. (Dkt. Nos. 34, 35, 37.)

16. On April 22, 2015, the Parties reported that they had reached an agreement in principle, resolving Plaintiff's claims on a class-wide basis. (Dkt. No. 39.) The Parties then spent four more months exchanging drafts of a final, written settlement agreement. After many exchanges of drafts and edits, the Parties were finally able to agree to the form and content of a settlement agreement in late July 2015 that has now been fully executed.

17. In the Agreement, Plaintiff negotiated confirmatory discovery given that the Court had previously stayed formal discovery. (Agreement ¶VII; Dkt. No. 26.) The Parties held several conference calls regarding the scope of confirmatory discovery following the execution of the Agreement. In addition, the Parties stipulated to an Agreed Confidentiality Order, entered by the Court on August 28, 2015. (Dkt. No. 46.)

18. Thereafter, Western Union produced thousands of pages of documents, including lists of Settlement Class Members. After conducting a comprehensive review of the documents, Plaintiff determined that the size of the Settlement Class is at most 823,472. Plaintiff has the names and last known addresses and mobile numbers for each Settlement Class Member. In addition, Plaintiff has the last known email addresses for a subset of the Settlement Class. Plaintiff also determined the manner in which the text messages were sent, including the involvement of third parties and the equipment used to send the text messages.

19. The benefit obtained for the Settlement Class is \$8,500,000, minus the costs of settlement administration, Class Counsel's fees, and Plaintiffs' incentive awards.

20. I have substantial experience in complex business litigation and class actions. My Firm, Siprut PC, substantially concentrates its practice in the prosecution of class actions. My Firm's resume is attached as Exhibit A hereto.

21. Throughout this litigation, my Firm has diligently prosecuted this matter, dedicating substantial resources to the investigation and litigation of the claims at issue, and has successfully negotiated the settlement of this matter to the benefit of the proposed Class. Neither my firm nor the Plaintiff have any interests antagonistic to the interests of the other Class members.

22. Plaintiff and Class Counsel believe that the claims asserted against Western Union in this litigation have merit. However, Plaintiff and Class Counsel recognize and acknowledge the expense and length of continued proceedings necessary to prosecute the litigation against Western Union through trial and appeals. Plaintiff and Class Counsel have also taken into account the uncertainty and risk of any litigation, especially in complex actions such as this Action, as well as the difficulties and delays inherent in such litigation. This litigation involves complex class issues, which would involve protracted and risky litigation if not settled. Moreover, in the event of any judgment against Western Union, an appeal could postpone any recovery for several years.

23. Accordingly, Plaintiff and Class Counsel believe that there is substantial benefit to the Class of receiving a cash award from Western Union.

24. The Settlement Agreement, and the terms thereof, was reached after rigorous advocacy and extensive negotiations, in which I directly participated. Plaintiff and Class Counsel believe that the terms set forth in the Settlement Agreement confer substantial benefits upon the proposed Class, and is a fair, reasonable, and adequate resolution of the Class' claims against

Western Union. As such, the Settlement is entitled to a good-faith determination and I respectfully submit that this Court should enter the proposed Preliminary Approval Order and, ultimately, the Final Order and Judgment, approving this proposed Settlement in all respects.

I declare under penalty of perjury under the laws of the State of Illinois that the foregoing is true and correct.

Executed on October 27, 2015 at Chicago, Illinois.

s/ Joseph J. Siprut

4846-0872-8872, v. 1

# **EXHIBIT A**



### **SIPRUT PC FIRM RESUME**

Siprut PC is a commercial litigation firm based in Chicago, with additional offices in San Diego, Boston, and Colorado Springs. The firm focuses its practice exclusively on complex litigation and pre-litigation counseling, encompassing a wide variety of areas and issues. The firm's primary litigation groups include plaintiffs' class action litigation (with an emphasis on consumer law issues); *qui tam* and whistleblower litigation; intellectual property and patent litigation; and business litigation.

Siprut PC and its attorneys have repeatedly been appointed as lead counsel in federal and state class action lawsuits across the country, and have recovered hundreds of millions of dollars for its clients. The firm has been prominently featured in the mainstream media for its successes and advocacy on behalf of consumers nationwide, and our attorneys are frequently invited to speak at seminars on consumer protection and class action issues.

### **CLASS ACTION AND CONSUMER LITIGATION**

---

Siprut PC is an established leader in the class action arena. The firm has been recognized for its "high-stakes, high-profile cases against large defendants" (Chicago Daily Law Bulletin, September 2011). As federal courts have further recognized in appointing the firm and its attorneys as lead counsel in some of the most prominent class cases in the country, Siprut PC has "substantial class action experience [and has served] as lead counsel" in myriad class litigation. *In re National Collegiate Athletic Association Student-Athlete Concussion Injury Litigation*, Case No. MDL 13-cv-9116 (N.D. Ill. July 29, 2014). The firm's recent settlements and leadership appointments include the following:

- *In re Southwest Airlines Voucher Litigation* (Case No. 11-cv-8176, N.D. Ill.): Appointed lead counsel in nationwide class action relating to Southwest's unilateral cancellation of drink vouchers paid for by business select travelers. Settlement valued up to \$58 Million granted final approval.
- *In re Energizer Sunscreen Litigation*, (Case No. 13-cv-00131, N.D. Ill.): Appointed lead counsel in nationwide class action relating to defective sunscreen nozzles manufactured by Energizer. Settlement valued up to \$200 Million granted final approval.
- *In re National Collegiate Athletic Association Student-Athlete Concussion Injury Litigation* (Case No. MDL 13-cv-9116, N.D. Ill.): Appointed co-lead counsel in consolidated MDL litigation against the NCAA on behalf of current and former collegiate athletes related to concussions and head injuries. Landmark settlement of \$75 million submitted for preliminary approval.
- *Illinois Nut & Candy Home of Fantasia Confections, LLC v. Grubhub, Inc., et al.* (Case No. 14-cv-00949, N.D. Ill.): Appointed lead counsel in nationwide class action relating to unsolicited facsimile transmissions by Grubhub, in violation of the Telephone Consumer Protection Act. Settlement of \$2 million granted final approval.

- *Padilla v. DISH Network LLC* (Case No. 12-cv-07350, N.D. Ill.): Appointed lead counsel in nationwide class action relating to statutory violations of the Satellite Home Viewer Extension and Reauthorization Act of 2004 (“SHVERA”). Landmark settlement providing class-wide injunctive relief – the first class settlement under SHVERA ever – granted final approval.
- *In Re Prescription Pads TCPA Litigation* (Case No. 13-cv-06897, N.D. Ill): Appointed lead counsel in nationwide class action relating to unsolicited facsimile transmissions by Rx Security, in violation of the Telephone Consumer Protection Act. Settlement of \$1 million granted final approval.
- *Lim, et al. v. Vendini* (Case No. 14-cv-561, Cal. Sup Ct.): Appointed co-lead counsel in nationwide class action relating to a security breach exposing the personal information of hundreds of thousands of consumers nationwide. Settlement of \$3 million granted final approval.
- *Muir v. W.S. Badger Co.*, (Case No. 14-CH-5935, Cir. Ct. Cook County, Illinois): Appointed lead counsel in nationwide class action relating to recall of defective sunscreen products. Settlement providing class-wide injunctive relief granted final approval.
- *Windows Plus, Incorporated v. Door Control Services, Inc.* (Case No. 13-cv-07072, N.D. Ill): Appointed lead counsel in nationwide class action relating to unsolicited facsimile transmissions by Door Control, in violation of the Telephone Consumer Protection Act. Settlement valued at \$1 million granted final approval.
- *Townsend v. Sterling* (Case No. 13-cv-3903, N.D. Ill): Appointed lead counsel in nationwide class action relating to violations of the Fair Credit Reporting Act in the employment context. Settlement granted final approval.
- *Dr. William P. Gress et al. v. Premier Healthcare Exchange West, Inc.* (Case No. 14-cv-501, N.D. Ill.): Appointed co-lead counsel in nationwide class action relating to unsolicited facsimile transmissions by Premier, in violation of the Telephone Consumer Protection Act. Settlement of \$756,000 granted preliminary approval.
- *Stephan Zouras LLP v. American Registry LLC* (Case No. 14-cv-943, N.D. Ill.): Appointed co-lead counsel in nationwide class action relating to unsolicited facsimile transmissions by Premier, in violation of the Telephone Consumer Protection Act. Settlement of granted preliminary approval.
- *Foos v. Ann, Inc.* (Case No. 11-cv-02794-L-MDD, S.D. Cal.): Appointed lead counsel in class action on behalf of California consumers for violations of the Song-Beverly Act. Settlement valued at \$2,323,500 granted final approval.
- *Lamb v. Bitech, Inc.* (Case No. 3:11-cv-05583-EDL, N.D. CA): Appointed lead counsel in class action on behalf of California consumers for violations of the Song-

Beverly Act. Class-wide settlement on behalf of 30,000 California residents granted final approval.

- *Golba v. Dick's Sporting Goods, Inc.* (Case No. 30-2011-00472227, CA Superior Ct.): Appointed lead counsel in class action on behalf of California consumers for violations of the Song-Beverly Act. Settlement valued at \$1,150,000 granted final approval.
- *Pietrantonio v. Ann Inc. d/b/a Ann Taylor, Inc.* (Case No. 13-cv-12721-RGS, D. Mass.): Appointed lead counsel in class action on behalf of Massachusetts consumers for violations of Massachusetts law prohibiting the collection of personal information. Settlement valued in excess of \$2 million received final approval.
- *Christensen v. Sur La Table, Inc.* (Case No. 13-cv-11357-GAO, D. Mass.): Appointed lead counsel in class action on behalf of Massachusetts consumers for violations of Massachusetts law prohibiting the collection of personal information. Settlement received final approval.
- *Monteferrante v. The Container Store, Inc.* (Case No. 13-cv-11362-RGS, D. Mass.): Appointed co-lead counsel in class action on behalf of Massachusetts consumers for violations of Massachusetts law prohibiting the collection of personal information. Settlement received final approval.
- *Alberts v. TSA Stores, Inc.* (Case No. MICV2014-01491, Mass. Sup. Ct.): Appointed lead counsel in class action on behalf of Massachusetts consumers for violations of Massachusetts law prohibiting the collection of personal information. Settlement valued at \$2 million received final approval.
- *Miller v. J. Crew Group, Inc.*, (Case No. 13-cv-11487, D. Mass.): Appointed co-lead counsel in class action on behalf of Massachusetts consumers for violations of Massachusetts law prohibiting the collection of personal information. Settlement valued at \$2 million received final approval.
- *Rich, et al. v Lowe's Home Centers Inc.* (Case No. 13-cv-30144-MGM, D. Mass.): Appointed co-lead counsel in class action on behalf of Massachusetts consumers for violations of Massachusetts law prohibiting the collection of personal information. Settlement received final approval.
- *Moyer v. Michaels* (Case No. 14-cv-561, N.D. Ill.): Appointed co-lead counsel in nationwide class action relating to a security breach exposing the personal information of hundreds of thousands of consumers nationwide.
- *Lewert v. P.F. Chang's China Bistro* (Case No. 14-cv-04787, N.D. Ill.): Appointed co-lead counsel in nationwide class action relating to a security breach exposing the personal information of hundreds of thousands of consumers nationwide.

- *Mednick v. Precor Inc.* (Case No. 14-cv-03624, N.D. Ill.): Appointed co-lead counsel in nationwide class action relating to false representations in the sale and marketing of Precor treadmills.
- *John McNamara, et al. v. Samsung Telecommunications America, LLC, et al.* (Case No. 14-cv-1676, N.D. Ill.): Appointed co-lead counsel in nationwide class action alleging false representations in connection with the performance of the Samsung 4G phone.
- *Belville et al v. Ford Motor Company* (Case No. 13-cv-06529, W.D. Va.): Appointed to Plaintiffs' Steering Committee in consolidated class litigation against Ford related to sudden acceleration in Ford model vehicles.
- *In re Ventra Card Litigation* (Case No. 13-cv-07294, N.D. Ill.): Appointed co-lead counsel in class litigation related to the Chicago Transit Authority Ventra payment card system.
- *In re Barnes & Noble Pin Pad Litigation* (Case No. 12-cv-8617, N.D. Ill.): Appointed co-lead counsel in nationwide class action relating to a security breach exposing the personal information of hundreds of thousands of consumers nationwide.
- *Goodman v. Casting360, LLC* (Case No. 12-cv-09851, N.D. Ill.): Appointed lead counsel in nationwide class action for violations of the federal Telephone Consumer Protection Act.
- *Kruse, et al. v. Citigroup, Inc.* (Case No. 11-cv-01003-AG-AN, C.D. CA): Appointed lead counsel in a nationwide class action against Citigroup for a massive data breach exposing the personal information of hundreds of thousands of consumers nationwide.

## **BUSINESS LITIGATION**

Siprut PC attorneys have substantial experience with emergency injunctive relief proceedings (representing both plaintiffs and defendants), restrictive covenant litigation, and large commercial contract disputes. Firm partners have contributed to the following matters:

- *NewSub Magazine Servs. LLC v Heartland Direct, Inc.* (Case No. 02-C-4949, N.D. Ill.): Pierced an entity's corporate veil to obtain a seven figure judgment against related corporations and individuals.
- *In re Estate of Edith-Marie Appleton* (Case No. 00-P-103, Cook County, IL): Successfully defended an estate, throughout a three-week jury trial, from a claim brought by Florida State University involving a \$2,000,001 alleged charitable pledge.

- *Edison Mission Energy v Mirant Corp* (Case No. 02-CC-0059, Orange County, CA.): Defended and settled \$750 million breach of contract case involving the purchase of a foreign power facility.
- *Johnson v. Sample & Cross Capital Mgmt.* (Case No. 07-L-929, Lake County, Ill.): Secured dismissal with prejudice of counts brought against a hedge fund by eleven investors in three separate actions, including claims for violation of the Illinois Securities Law Act, violation of the Illinois Consumer Fraud Act, breach of fiduciary duty, and negligence.
- *American Insurance v. Ingram* (Cook Co., Ill.): Obtained preliminary and permanent injunctions against former employee who opened competing business and used previous employer's confidential information.
- *Veal v. James and 7-Eleven* (Cook Co., Ill.): Obtained judgment following bench trial in favor of employee accused of wrongful conduct.
- *Des Plaines Office Equipment Co. v. Nicolin et al.* (Cook Co. Ill.): Represented hiring company and former employee in lawsuit brought by prior employer to enjoin employee from working. Successfully opposed motions for TRO, preliminary and permanent injunctions.
- *In re Confidential Arbitration* (JAMS Chicago, IL): Following week-long trial before retired federal judge, successfully defended breach of fiduciary duty and shareholder dilution claims in excess of \$7 million. Claims arose from issuance of capital call and allocation of distributions and management fees.
- *In re Confidential Arbitration* (AAA St. Louis, MO): Following trial before a three-member arbitration panel, recently obtained a \$1.7 million award, including recovery of all attorneys' fees and costs. Claims arose from purchase of multiple nursing home facilities.
- *Delaware Superior Court and Illinois Chancery Court Litigation.* Defended industrial equipment company in case brought by hedge fund investor concerning hedge fund's investment in \$75 million secured lending loan facility. Claims involved financing and dissolution of business issues.
- *Real estate arbitration* (AAA Minneapolis, MN). Obtained \$100,000 award, including all attorneys' fees and costs, on behalf of commercial real estate buyer in breach of contract action with seller.
- *Trilegiant v. Sitel Corporation* (S.D.N.Y.). Represented Trilegiant in breach of contract action seeking \$34 million in liquidated damages from vendor.
- *Confidential purchase price adjustment arbitration* (AAA Chicago). Represented plastics manufacturer in arbitration. The Panel found in Client's favor on claims for breach of asset purchase agreement entered into as part of reverse spin-off

transaction and public offering. In addition, the Panel denied the Opposing Party's counterclaim for breach of a related real estate sublease and awarded judgment to Client on its counterclaim concerning the same sublease.

- *Advertising Arbitration* (AAA Chicago). Arbitrated dispute on behalf of professional sports team relating to advertising sales and contracts; obtained favorable result.
- *Confidential arbitration for aviation company* (ICC Chicago). Represented aviation manufacturer in contract dispute arising from purchase of company. Following evidentiary hearings, obtained arbitration award in favor of client.
- *Lakeshore Drive Entertainment v. Prestige Films et al.* (Cook Co. Ill): Obtained dismissal of claims brought by movie production company over distribution rights.

#### **ANTITRUST, UNFAIR COMPETITION, AND RICO LITIGATION**

Siprut PC attorneys have substantial experience handling antitrust and unfair competition litigation, including RICO claims, against some of the largest corporations in the world. Representative litigation includes:

- *Woolsey v. JP Morgan Chase & Co.* (S.D. Cal.). Representing putative class alleging JP Morgan Chase manipulated the price for electricity within the California electricity market through a series of deceptive bidding strategies, resulting in higher prices to consumers.
- *In re Sulfuric Acid* (N.D. Ill.) Represented sulfuric acid manufacturer in putative nationwide class action pending in federal court in Chicago and indirect purchaser class action pending in California state court. Plaintiff alleged industry-wide scheme to constrain the supply and inflate the price of sulfuric acid. After eight years of litigation, obtained summary judgment on all direct purchaser claims, which was subsequently affirmed by the Seventh Circuit.
- *In re Credit Swaps Default Litigation* (N.D. Ill.). Represented financial services company in putative class action alleging defendants conspired to restrict competition in the market for credit default swaps by monopolizing the sell-side of the CDS market and thereby maintaining anti-competitively wide bid-ask spreads.
- *Rasterex Holdings v Research in Motion, et al* (Fulton Co., Georgia). Represented RIM and co-defendants in trade secret dispute. Plaintiff alleged RIM misappropriated trade secrets and incorporated them into RIM's Blackberry handheld device. Following summary judgment motions, obtained settlement on eve of trial.
- *Safelite Glass Corp.* (E.D. Tex.). Obtained summary judgment on behalf of all defendants, and then won affirmance by U.S. Court of Appeals for the Fifth Circuit, defeating all claims in *Stewart Glass & Mirror, Inc. v. USA GLAS Corp.*, a suit by



Texas plaintiffs against national corporate competitors asserting conspiracy and monopolization in violation of federal antitrust laws.

## **CIVIL RIGHTS AND CONSTITUTIONAL CLAIMS**

---

Siprut PC attorneys have handled landmark, high-impact civil rights and constitutional claims against municipalities, state and government entities, and corporate employers. Representative litigation includes:

- *Doe II and Doe III , Does IV-VIII* (N.D. Ill.): Representing female victims of sexual assault for claims of civil rights and equal protection violations against The City of Harvey. We allege that Harvey has a custom, policy and practice of failing to adequately investigate claims by female rape victims, including in some instances failing to submit or process sexual assault evidence or rape kits.
- *Green v. Village of Winnetka* (Cook Co. Ill.): Representing putative class of Winnetka property owners who allege Village is violating the Illinois constitution by charging utility fees to fund a \$42 million stormwater project that includes an eight mile tunnel to Lake Michigan.
- *People Who Care v. Rockford Board of Education* (Case No. 89-cv-20168, N.D. Ill.) Represented African American and Hispanic students in desegregation and educational equity class action lawsuit against one of the largest school districts in Illinois. Proved liability across most areas of school operations, including special education, school building conditions, transportation, and student assignment. Secured multi-year, comprehensive court-ordered remedies. Represented plaintiffs throughout 10 years of remedies implementation.
- *Johnson v. Board of Education of Champaign Unit School District* (Case No. 00-cv-1349, C.D. Ill.) Represented African American and Hispanic students in race discrimination and desegregation class action lawsuit. Secured comprehensive settlement affecting many areas of school district operations, including climate and discipline, upper level courses, student assignment, special education, and gifted programs. Represented plaintiff class throughout seven years of settlement monitoring.
- *McFadden v. Board. of Education School District U-46* (Case No. 05-cv-0760, N.D. Ill.) Represented minority students in educational equity suit against second largest school district in Illinois. Defendant found liable for intentionally segregating Hispanic students into separate gifted program.
- *Ramirez v. Ceisel Masonry* (N.D. Ill.): Represented Hispanic laborers who alleged they were being discriminated against on the job because of their race. Obtained favorable settlement on behalf of all plaintiffs.

## **WHISTLEBLOWER AND FALSE CLAIMS ACT LITIGATION**

Siprut PC attorneys have led litigation resulting in settlements in excess of \$100 million, and we are actively prosecuting numerous False Claims Act lawsuits:

- *U.S. ex rel. Robinson v. Northrop-Grumman Corp.* (Case No. 89-cv-6111, N.D. Ill.) Qui tam action brought against Northrop-Grumman for fraud in connection with the B-1 bomber, the B-2 “Stealth” bomber, and the F-15 fighter. Sixteen years after the case was filed, it was settled prior to trial for a total recovery of \$135 million.
- *U.S. ex rel. McGee v. IBM, Corp., et al.* (Case No. 11-cv-3482, N.D. Ill.) Currently pending, the case concerns a bid-rigging conspiracy in connection with a \$50 million Homeland Security Project in Cook County. Successfully defeated IBM’s motion to dismiss in its entirety.
- *U.S. ex rel. Solomon v. Lockheed Martin Corp.* (Case No. 3:12-DV-4495-D, N.D. Tx.) Currently pending, the case seeks more than \$100 million in damages for fraud in connection with the F-35 Joint Strike Fighter, the most expensive weapons program ever.
- Currently under seal is a qui tam action for the submission of false claims by a facility performing Magnetic Resonance Imaging in violation of Medicare’s Multiple Procedures Payment Reduction Policy.
- Currently under investigation is a potential Medicare *qui tam* action against a pharmaceutical manufacturer and its distributors for overcharging the government hundreds-of-millions of dollars through falsely reporting the Average Wholesale Price of its drugs.
- Currently under investigation is a potential Medicare/Medicaid *qui tam* action concerning fraud in connection with the efforts of a manufacturer of a defective medical implant device to obtain FDA approval of a the implant. Potential damages valued in excess of \$100 million.
- Currently under investigation is a potential *qui tam* action in connection with hundreds-of-millions of dollars in false claims relating to mortgage foreclosures

## **PATENT LITIGATION**

Siprut PC and its attorneys have successfully represented public companies, mid-size businesses, small companies, and individuals in their patent disputes all over the United States and the world – from Chicago to San Francisco, from Russia to Cyprus. We have litigated cases in a variety of technological fields, including the life sciences (DNA amplification, screening, and sequencing), computer science (cloud computing, optical character recognition, and genome sequencing), and orthopedic fields (dental and hip implants). Siprut PC has recovered millions of dollars for our clients against some of the largest and most aggressive companies in the country.



## **ATTORNEYS**

---

**JOSEPH SIPRUT** is the founder and managing partner of Siprut PC. He was named a “Super Lawyer” in Illinois for Class Action Litigation, and holds an *AV Preeminent* rating by Martindale Hubble, the highest possible peer review rating. He has been called a “fearless game-changer in class actions” by the Chicago Daily Law Bulletin. Mr. Siprut was previously named one of the Top 40 attorneys in Illinois under the age of 40, and was also named one of the “Top 40 Under 40” in the country by the National Trial Lawyers Association. ALM Legal Leaders named Mr. Siprut one of “Chicago’s Top Rated Lawyers of 2014.” Mr. Siprut was also selected for membership in the Multi-Million Dollar Advocates forum, one of the most prestigious groups of trial lawyers in the United States. Membership is limited to attorneys who have won million and multi-million dollar verdicts and settlements, and fewer than 1% of U.S. lawyers are members.

Mr. Siprut has appeared in dozens of publications and television and radio broadcasts worldwide, including CBS Radio, NPR, ESPN, Bloomberg Law, Law360, the Chicago Tribune, and more. He has been deemed by the media as the “Friend of the Frequent Fliers” for his successful litigation crusades against the airline industry on behalf of airline customers, as well as a “Leading Sports Reformer” for his advocacy to combat the problem of concussions and head injuries in college sports.

Mr. Siprut frequently speaks at national class action and consumer litigation seminars. He has substantial first-chair trial experience, and previously served as an Adjunct Professor at Northwestern University School of Law in the Trial Advocacy program. He is also a frequent author and speaker, having published over 25 articles in the nation's leading law reviews and legal journals on topics including the right of privacy, copyright litigation, and contract doctrine, as well as litigation strategy and tactics. He was appointed as a member of the Illinois ARDC Hearing Board, and is also a member of the Advisory Board for the Fair Contracts Project, an initiative focused on counteracting the implications of fine print in standard form consumer contracts.

Mr. Siprut is a graduate of Northwestern University School of Law, where he served as the Managing Editor of the Northwestern Law Review and was selected to represent Northwestern in national competition as a member of its National Moot Court team. He was also awarded the Institute for Humane Studies Fellowship, a national fellowship competition for law and graduate study.

Prior to founding Siprut PC, Mr. Siprut spent his career practicing at some of the top corporate litigation firms in the country. Mr. Siprut has been recognized by the Law in Public Service Committee of the ABA for his dedication to pro bono work. He is admitted to practice in Illinois, the United States District Court for the Northern District of Illinois (including its Trial Bar), the Seventh Circuit Court of Appeals, the Eleventh Circuit Court of Appeals, and the United States Supreme Court. For over five years, Mr. Siprut served as an arbitrator in the Cook County Arbitration Program.

\* \* \*

**TODD McLAWHORN** is a partner at Siprut PC. He has over twenty years of commercial litigation trial experience, most of that with three of the country's largest law firms. He has tried cases and appeared before courts in a variety of jurisdictions, literally spanning the country from coast to coast. Mr. McLawhorn has significant experience with complex business litigation, including matters involving contracts, consumer fraud allegations, shareholder disputes and valuations, commercial real estate, trade secret issues, deceptive trade practices claims, antitrust issues, and merger and acquisition issues. He has represented assorted clients in a wide array of industries, including those in the financial services, banking, health care, computer hardware and software, membership services, manufacturing and professional sports fields. In addition, Mr. McLawhorn has devoted a substantial portion of his practice to class action litigation, particularly with respect to antitrust and consumer fraud claims.

Mr. McLawhorn recently received an AV Preeminent Rating, the highest possible rating, in the Martindale-Hubbell Peer Review Ratings Program. Mr. McLawhorn was previously recognized by The Chicago Law Bulletin and The Chicago Lawyer as one of the Top 40 lawyers under 40 in Illinois. He has contributed to several publications, most recently as a Contributor to the World Banks Group Doing Business 2015, and to various bar association publications. He has also provided significant pro bono representation, including assisting individuals who flee their home countries and seek political asylum in the United States, and helping individuals involved in the Illinois Chancery Court's Foreclosure Mediation Program, in an effort to help homeowners who are in foreclosure retain their homes.

In addition to being admitted to practice in New York and Illinois, Mr. McLawhorn is also admitted to practice before the United States Courts of Appeals for the Seventh Circuit, Federal Circuit, Fifth Circuit, and Eleventh Circuit, as well as the United States District Courts for the Northern District of Illinois (Trial Bar), Southern District of Illinois, Central District of Illinois, Southern District of New York, Eastern District of Michigan, Eastern District of Wisconsin, and Western District of Wisconsin. He is also a member of the American Bar Association, and is part of the Antitrust, Business Law, and Litigation Sections. As part of the Litigation Section, he is also a member of the Class Action and Derivatives Suit Committee, the Commercial and Business Litigation Committee, and the Intellectual Property Committee. Closer to home, Mr. McLawhorn is a longtime member of the Chicago Bar Association and the Illinois State Bar Association. In connection with the Chicago Bar Association, he is a member of the Antitrust, Class Action, and Consumer Law Committees.

Mr. McLawhorn received his law degree, with honors, from the University of North Carolina at Chapel Hill. At the University of North Carolina, he was on both Law Review and the Holderness Moot Court Bench. Prior to attending law school, Mr. McLawhorn graduated from East Carolina University, magna cum laude, in three years with a Bachelor of Arts in Psychology. In 2011 Mr. McLawhorn was elected to the District 101 Board of Education, and serves on the Building, Finance, and Legislative Committees. He is a former President and Board Member of the Village Club of Western Springs, a social and service organization. He is also actively involved in coaching and supporting his children's sports teams, and has served on various boards in connection with those activities.

\* \* \*

**RICHARD L. MILLER II** is a partner at Siprut PC. Richard was previously in-house counsel at a private equity firm, and before that, a partner at Novack and Macey LLP, where he specialized in commercial litigation. While there, Richard advised clients and litigated disputes involving real estate, insurance coverage, creditors' rights, products liability, licenses, trademark, employment contract and corporate veil piercing claims, among others.

Richard is an Adjunct Professor at Northwestern University School of Law where he has served as a Trial Advocacy instructor since 2005 and Advanced Trial Advocacy instructor since 2013. He has been an American Arbitration Association arbitrator since 2010 and, prior to that, was an arbitrator for the Cook County Mandatory Arbitration Program for two years.

Richard served as a prosecutor for Champaign County, Illinois for two years. He litigated approximately 50 jury trials, as well as innumerable bench trials. He prosecuted four murder cases, two of which went to trial, resulting in sentences of 45 and 55 years.

Richard was named one of the "40 Illinois Attorneys Under 40 To Watch" by the Law Bulletin Publishing Company, publishers of the Chicago Lawyer and Chicago Daily Law Bulletin. Chicago Magazine has repeatedly recognized Richard as a "Super Lawyer," "Rising Star" and one of the Top Young Commercial Litigation Attorneys in Illinois.

Richard has published articles appearing in the Illinois Bar Journal on Expert Testimony, Emergency Temporary Restraining Orders, The Wage Payment Act, and Spoliation Claims. He has also served as an author for the Illinois Institute of Continuing Legal Education (IICLE) for many years, authoring guides for practitioners on: Pleading Under the Federal Rules, Federal Motion Practice, Preparing for Trial, and Preserving the Record During Trial. Richard has lectured at webinars for ICLE on Motion Practice, Negotiating Settlements and Cross Examinations.

Richard is a member of the Illinois State Bar Association, the American Bar Association, the Chicago Bar Association and the University Club of Chicago. He currently serves as the President of the University of Illinois Law Alumni Board.

\* \* \*

**BRUCE HOWARD** is a partner at Siprut PC. He was named National Trial Lawyer of the Year Finalist by the Trial Lawyers for Public Justice, and was named a "Super Lawyer" in Illinois for Class Action Litigation, Securities Litigation, and ERISA Class Action Litigation. He was also named as a one of the Top Attorneys in Illinois by Chicago Magazine.

Mr. Howard has over thirty years of commercial litigation trial experience. Mr. Howard has significant experience with complex business litigation, including matters involving antitrust issues, shareholder fraud and corporate derivative class action claims, ERISA class actions claims, mass tort issues, trademark matters, deceptive trade practices issues, insurance defense matters, actions under the Racketeer Influenced and Corrupt Organizations Act, issues arising under the Anticybersquatting Consumer Protection Act, and whistle blower actions under the False Claims Act. He was also appointed as a Special Assistant Attorney General for the State of Illinois for purposes of prosecuting eminent domain matters. In addition to having devoted a

substantial portion of his career to antitrust and securities fraud matters, for the last twenty years, Mr. Howard has devoted a substantial portion of his practice to whistle blower actions for Medicare, Medicaid, Homeland Security, and defense contractor fraud.

Mr. Howard's notable cases include: *Ohio-Sealy Mattress Mfg. Co. v. Sealy, Inc.*, an antitrust action in which he was involved in several Seventh Circuit appeals and litigation work-up, resulting in a \$77 million jury verdict; *Morse v. Abbott Laboratories, Inc.*, a securities fraud class action which resulted in a \$15.3 million jury verdict; *In re Chicago Flood Litigation*, in which he had a prominent role in the work-up of the case, which settled for more than \$25 million; *Tyco International, Inc.*, a consolidated securities fraud class action that was jointly settled as part of a \$3.2 billion global settlement – the third largest class action recovery ever; *Robinson v. Northrop Corporation*, a whistle blower action which, after 16 years of litigation, settled prior to trial for \$134 million – the largest recovery in a False Claims Act case in this region at the time.

Mr. Howard received his law degree from Washington & Lee University School of Law.

\* \* \*

**MATTHEW WAWRZYN** is a partner at Siprut PC. He is a trial attorney with experience in many areas of law over 15 years. He has been lead counsel in various patent-infringement matters, both defending public companies and representing plaintiff companies of all sizes. Mr. Wawrzyn has also successfully defended businesses against allegations of fraud, breach of contract, white-collar crime, and has represented companies in accounting and insolvency cases in federal court and as part of federal regulatory proceedings.

In the last two years, Mr. Wawrzyn has acted as lead counsel on behalf of various inventors who seek to protect their patent portfolios from infringement by some of the largest companies in the world. Many of these cases were asserted against Fortune 100 companies and have since concluded favorably out of court.

Mr. Wawrzyn has argued before the Federal Circuit and five times before the Seventh Circuit Court of Appeals, and has drafted a petition for writ of certiorari on which the Supreme Court of the United States ordered a response. Mr. Wawrzyn began his career at Winston & Strawn in Chicago. His practice was largely devoted to representing major creditors in various large bankruptcy cases, including United Air Lines and Kmart. Mr. Wawrzyn also focused on white-collar crime and securities enforcement, including internal investigations and the defense of a large corporation in an investigation by the Securities Exchange Commission.

Mr. Wawrzyn subsequently joined Kirkland & Ellis in Chicago, where he continued to represent debtors in possession in large Chapter 11 cases at contested confirmation and Rule 9019 hearings. He also managed bankruptcy litigation on behalf of a private equity firm. In addition, Mr. Wawrzyn continued to devote his time to white-collar crime, securities enforcement, and general commercial litigation. Notably, Mr. Wawrzyn defended a "Big Four" accounting firm in one of the first investigations conducted by the Public Company Accounting Oversight Board, or PCAOB.

In early 2010, Mr. Wawrzyn founded a Chicago-based litigation boutique. Some of that firm's notable representations included the defense of the Russian software developer ABBYY against patent-infringement allegations of its chief competitor and the defense of the life sciences firm Illumina, again, against patent-infringement allegations of a chief competitor. The ABBYY case involved "optical character recognition" methods, and the Illumina case involved DNA amplification and sequencing techniques. Mr. Wawrzyn's litigation boutique merged with Siprut PC in 2015.

Mr. Wawrzyn graduated summa cum laude from DePaul University College of Law, where he was elected Order of the Coif and was a member of the DePaul Law Review. While at DePaul, Mr. Wawrzyn won 7 "CALI" awards for achieving the top grade in his class. He also published the following: Note, Constitutional Principles at Loggerheads with Community Action, 50 DePaul L. Rev. 371 (Fall 2000). Mr. Wawrzyn was named an Illinois "Super Lawyer -- Rising Star" in 2013 and again in 2014.

\* \* \*

**KATHLEEN MANGOLD-SPOTO** is Of Counsel at Siprut PC. She has over twenty years of class action litigation experience, primarily in the areas of consumer fraud, civil rights, and educational equity. She formerly was a partner at Futterman & Howard, Chtd., a premier civil rights, securities, and consumer fraud firm in Chicago. She has extensive experience as lead writer on trial and appellate briefs in complex federal cases, including on briefs to the United States Courts of Appeals for the Seventh and Second Circuits. She has been a conference presenter and college and law school guest lecturer on the topics of civil rights litigation under 42 U.S.C. Section 1983, education law, constitutional law, and the 50<sup>th</sup> Anniversary of *Brown v. Board of Education*.

Kathleen worked for six years as an elbow law clerk for federal judges in the Northern District of Illinois and the District of New Hampshire. She has many years' experience teaching legal writing and civil procedure at law schools in the Midwest and New England and has presented at regional, national, and international legal writing conferences. She recently served as a volunteer legal editor for the *Clearinghouse Review*, a publication of the Sargent Shriver National Center on Poverty Law. She is the author of *Third Party Challenges to Desegregation Remedies*, Ch.17, Civil Rights Litigation and Attorney Fees Annual Handbook, Vol. 15 (Dec. 1999), West Publishing.

Kathleen is a graduate of Loyola University Chicago School of Law, where she was a member of the Loyola Law Review. She received her undergraduate degree from the University of Illinois at Urbana-Champaign in English and Psychology.

\* \* \*

**MICHAEL L. SILVERMAN** is an attorney at Siprut PC. His practice is focused on complex and commercial litigation, with an emphasis on class action litigation involving antitrust, consumer protection, and contract law. Mr. Silverman has extensive experience in electronic discovery matters including electronic document preservation, spoliation, production, and



computer forensics. His efforts have assisted in the recovery of hundreds of millions of dollars for the class members he has represented.

Mr. Silverman received his Bachelors of Business Administration from the University of Wisconsin-Madison School of Business, where he concentrated his studies in Finance, Investments, and Banking. Mr. Silverman graduated *Cum Laude* from DePaul University College of Law, receiving his Juris Doctor degree in 2008. While in law school, Mr. Silverman served as an Editor for the Journal of Contemporary Moral Issues as well as a Legal Writing Teaching Assistant for first-year law students. He is admitted to the Illinois State Bar and United States District Court, Northern District of Illinois.

\* \* \*

**JOHN MARRESSE** is an attorney at Siprut PC. His practice focuses on complex commercial and class action litigation. Mr. Marrese has handled all phases of pre-trial litigation, including drafting and arguing dispositive and evidentiary motions, taking and defending depositions, developing and executing written discovery, and preparing fact and expert witnesses for deposition and trial. He has also assisted in several trials resulting in favorable verdicts and settlements for his clients.

Mr. Marrese graduated *cum laude* from The Ohio State University College of Law, where he was elected Chief Managing Editor of the Ohio State Journal of Criminal Law and as a member of the International Law Moot Court Team. Mr. Marrese achieved the top grade in his class in both Trial Practice and Appellate Advocacy, and clerked for the United States Attorney's Office for the Southern District of Ohio. He received his B.A. from Emory University in Atlanta.

Mr. Marrese is admitted to practice in Illinois, the United States District Court for the Northern District of Illinois, and the United States District Court for the Eastern District of Wisconsin.

\* \* \*

**STEPHEN JARVIS** is an attorney at Siprut PC. Mr. Jarvis has actively participated in over 20 patent litigations pending around the United States, including arguing and drafting an array of substantive motions and briefs in federal court. Mr. Jarvis has taken and defended depositions, including particularly expert witnesses.

Mr. Jarvis graduated summa cum laude from DePaul University College of Law, where he was elected Order of the Coif and was a member of the DePaul Law Review. While at DePaul, Mr. Jarvis won 4 "CALI" awards for achieving the top grade in his class. Mr. Jarvis also won the Scandaglia & Ryan Excellence in IP Legal Writing Award, and he published a Comment in the DePaul Law Review.

\* \* \*

**GREGG BARBAKOFF** is an attorney at Siprut PC. His practice encompasses a wide spectrum of litigation with an emphasis on commercial litigation and consumer class actions. Gregg serves on the Board of Directors for the American Constitution Society, a progressive legal organization dedicated to the core Constitutional values of civil liberties, open access to justice, and the rule of law.

Gregg is a graduate of the Chicago-Kent College of Law, where he served as an editor of the Seventh Circuit Review, in which he was also published. During law school, he was selected as a Member of the Chicago-Kent Moot Court Honor Society, where he won the award for Best Overall Oralist at the Appellate Lawyers Association Moot Court Competition. Gregg was selected for the Class of 1976 Honors Scholarship while attending Chicago-Kent. Gregg graduated from Chicago-Kent *magna cum laude*, and was recently inducted into the Order of the Coif. Gregg is admitted to practice in Illinois and in the United States District Court for the Northern District of Illinois.

\* \* \*

**ISMAEL SALAM** is an attorney at Siprut PC. His practice is focused principally on class action litigation, with an emphasis on consumer protection, data privacy and technology issues, and litigation under the Telephone Consumer Protection Act. Ismael is a graduate of Loyola University Chicago School of Law, where he served as Managing Editor of the Public Interest Law Reporter, in which he is also published. He also served as a junior member of the Loyola Law Journal, the law school's main publication. During law school, he was selected as a Student Fellow for Loyola's Institute for Consumer Antitrust Studies, where he drafted papers on price-fixing. He was also awarded the CALI for the highest grade in his Law and Economics course.

Prior to Siprut PC, Ismael interned with the U.S. Army Judicial Advocate General's Corps at Fort Carson, Colorado, U.S. Attorney's Office for the Northern District of Illinois, U.S. Court of Appeals for the Seventh Circuit, and U.S. District Court for the Northern District of Illinois.

\* \* \*

**MICHAEL OBERNESSER** is Of Counsel to Siprut PC. Michael graduated magna cum laude from Xavier University in Cincinnati, Ohio with a Bachelor's Degree in Philosophy in 1998. After graduation, Michael went on to receive his Juris Doctor at the Northwestern University School of Law in Chicago, Illinois in 2001. While attending Northwestern, Michael was a member of the Bluhm Legal Clinic, where he represented clients accused of a wide variety of criminal offenses, including drug and gun possession, assault and battery, and murder. After graduation, Michael went to work for some of the largest law firms in the nation, including Morgan, Lewis & Bockius LLP, and Howrey LLC, where he litigated complex matters on behalf of his clients.

\* \* \*

**TODD C. ATKINS** is Of Counsel at Siprut PC, and heads the Firm's California office. His litigation practice encompasses class actions, real estate and securities matters – representing



both brokers and plaintiffs. Todd is also a trained and experienced mediator, and received his certification from the National Conflict Resolution Center.

Todd is a graduate of the University of San Diego, School of Law. He is admitted to practice in California, the District of Columbia, and the United States District Court for the Southern District of California, and is also a licensed real estate broker

\* \* \*

**ALEXANDER SHAPOVAL** is Of Counsel at Siprut PC, and heads the Firm's Boston office. His practice encompasses all manner of civil litigation, including class actions and personal injury litigation. Alexander is an experienced trial lawyer, with substantial first-chair jury trial experience.

Alexander is a graduate of the Massachusetts School of Law. He is admitted to practice in Massachusetts and the United States District Court for the District of Massachusetts.

4821-5129-8057, v. 1